

Senate Bill 443

Sponsored by Senator STEINER HAYWARD; Senators BATES, BURDICK, GIROD, HASS, KRUSE, MONNES ANDERSON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires State Board of Parole and Post-Prison Supervision or supervisory authority to prohibit contact with member of victim's immediate family as condition of post-prison supervision or parole for person convicted of sex crime. Requires that approval for contact with victim or victim's immediate family member be in writing.

A BILL FOR AN ACT

1
2 Relating to sex offenders; amending ORS 144.102 and 144.270.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 144.102 is amended to read:

5 144.102. (1) The State Board of Parole and Post-Prison Supervision or local supervisory authority
6 responsible for correctional services for a person shall specify in writing the conditions of post-
7 prison supervision imposed under ORS 144.096. A copy of the conditions must be given to the person
8 upon release from prison or jail.

9 (2) The board or the supervisory authority shall determine, and may at any time modify, the
10 conditions of post-prison supervision, which may include, among other conditions, that the person
11 shall:

12 (a) Comply with the conditions of post-prison supervision as specified by the board or supervi-
13 sory authority.

14 (b) Be under the supervision of the Department of Corrections and its representatives or other
15 supervisory authority and abide by their direction and counsel.

16 (c) Answer all reasonable inquiries of the board, the department or the supervisory authority.

17 (d) Report to the parole officer as directed by the board, the department or the supervisory au-
18 thority.

19 (e) Not own, possess or be in control of any weapon.

20 (f) Respect and obey all municipal, county, state and federal laws.

21 (g) Understand that the board or supervisory authority may, at its discretion, punish violations
22 of post-prison supervision.

23 (h) Attend a victim impact treatment session in a county that has a victim impact program. If
24 the board or supervisory authority requires attendance under this paragraph, the board or supervi-
25 sory authority may require the person, as an additional condition of post-prison supervision, to pay
26 a reasonable fee to the victim impact program to offset the cost of the person's participation. The
27 board or supervisory authority may not order a person to pay a fee in excess of \$5 under this par-
28 agraph.

29 (3) If the person is required to report as a sex offender under ORS 181.806, the board or super-
30 visory authority shall include as a condition of post-prison supervision that the person report with

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the Department of State Police, a city police department, a county sheriff's office or the supervising
2 agency:

3 (a) When supervision begins;

4 (b) Within 10 days of a change in residence;

5 (c) Once each year within 10 days of the person's date of birth;

6 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
7 institution of higher education; and

8 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
9 education.

10 (4)(a) The board or supervisory authority may establish special conditions that the board or su-
11 pervisory authority considers necessary because of the individual circumstances of the person on
12 post-prison supervision.

13 (b) If the person is on post-prison supervision following conviction of a sex crime, as defined in
14 ORS 181.805, the board or supervisory authority shall include all of the following as special condi-
15 tions of the person's post-prison supervision:

16 (A) Agreement to comply with a curfew set by the board, the supervisory authority or the
17 supervising officer.

18 (B) A prohibition against contacting a person under 18 years of age without the prior written
19 approval of the board, supervisory authority or supervising officer.

20 (C) A prohibition against being present more than one time, without the prior written approval
21 of the board, supervisory authority or supervising officer, at a place where persons under 18 years
22 of age regularly congregate.

23 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
24 against being present, without the prior written approval of the board, supervisory authority or
25 supervising officer, at, or on property adjacent to, a school, child care center, playground or other
26 place intended for use primarily by persons under 18 years of age.

27 (E) A prohibition against working or volunteering at a school, child care center, park, play-
28 ground or other place where persons under 18 years of age regularly congregate.

29 (F) Entry into and completion of or successful discharge from a sex offender treatment program
30 approved by the board, supervisory authority or supervising officer. The program may include
31 polygraph and plethysmograph testing. The person is responsible for paying for the treatment pro-
32 gram.

33 (G) A prohibition against direct or indirect contact with the victim **or a member of the**
34 **victim's immediate family**, unless approved **in writing** by the victim, the person's treatment pro-
35 vider and the board, supervisory authority or supervising officer.

36 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
37 graph, a prohibition against viewing, listening to, owning or possessing sexually stimulating visual
38 or auditory materials that are relevant to the person's deviant behavior.

39 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
40 upon the request of a representative of the board or supervisory authority if the representative has
41 reasonable grounds to believe that evidence of a violation of a condition of post-prison supervision
42 will be found.

43 (J) Participation in random polygraph examinations to obtain information for risk management
44 and treatment. The person is responsible for paying the expenses of the examinations. The results
45 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to

1 prove a violation of post-prison supervision.

2 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
3 approved by the board, supervisory authority or supervising officer.

4 (L) A prohibition against using a post-office box unless approved by the board, supervisory au-
5 thority or supervising officer.

6 (M) A prohibition against residing in a dwelling in which another sex offender who is on pro-
7 bation, parole or post-prison supervision resides unless approved by the board, supervisory authority
8 or supervising officer, or in which more than one other sex offender who is on probation, parole or
9 post-prison supervision resides unless approved by the board or the director of the supervisory au-
10 thority, or a designee of the board or director. As soon as practicable, the supervising officer of a
11 person subject to the requirements of this subparagraph shall review the person's living arrange-
12 ment with the person's sex offender treatment provider to ensure that the arrangement supports the
13 goals of offender rehabilitation and community safety.

14 (c)(A) If the person is on post-prison supervision following conviction of a sex crime, as defined
15 in ORS 181.805, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18
16 years of age, the board or supervisory authority, if requested by the victim, shall include as a special
17 condition of the person's post-prison supervision that the person not reside within three miles of the
18 victim unless:

19 (i) The victim resides in a county having a population of less than 130,000 and the person is
20 required to reside in that county under subsection (7) of this section;

21 (ii) The person demonstrates to the board or supervisory authority by a preponderance of the
22 evidence that no mental intimidation or pressure was brought to bear during the commission of the
23 crime;

24 (iii) The person demonstrates to the board or supervisory authority by a preponderance of the
25 evidence that imposition of the condition will deprive the person of a residence that would be
26 materially significant in aiding in the rehabilitation of the person or in the success of the post-prison
27 supervision; or

28 (iv) The person resides in a halfway house.

29 (B) A victim may request imposition of the special condition of post-prison supervision described
30 in this paragraph at the time of sentencing in person or through the prosecuting attorney. A victim's
31 request may be included in the judgment document.

32 (C) If the board or supervisory authority imposes the special condition of post-prison supervision
33 described in this paragraph and if at any time during the period of post-prison supervision the victim
34 moves to within three miles of the person's residence, the board or supervisory authority may not
35 require the person to change the person's residence in order to comply with the special condition
36 of post-prison supervision.

37 (5)(a) The board or supervisory authority may require the person to pay, as a condition of
38 post-prison supervision, compensatory fines, restitution or attorney fees:

39 (A) As determined, imposed or required by the sentencing court; or

40 (B) When previously required as a condition of any type of supervision that is later revoked.

41 (b) The board may require a person to pay restitution as a condition of post-prison supervision
42 imposed for an offense other than the offense for which the restitution was ordered if the person:

43 (A) Was ordered to pay restitution as a result of another conviction; and

44 (B) Has not fully paid the restitution by the time the person has completed the period of post-
45 prison supervision imposed for the offense for which the restitution was ordered.

1 (6) A person's failure to apply for or accept employment at a workplace where there is a labor
2 dispute in progress does not constitute a violation of the conditions of post-prison supervision.

3 (7)(a) When a person is released from imprisonment on post-prison supervision, the board shall
4 order as a condition of post-prison supervision that the person reside for the first six months after
5 release in the county that last supervised the person, if the person was on active supervision as an
6 adult for a felony at the time of the offense that resulted in the imprisonment.

7 (b) If the person was not on active supervision as an adult for a felony at the time of the offense
8 that resulted in the imprisonment, the board shall order as a condition of post-prison supervision
9 that the person reside for the first six months after release in the county where the person resided
10 at the time of the offense that resulted in the imprisonment.

11 (c) For purposes of paragraph (b) of this subsection:

12 (A) The board shall determine the county where the person resided at the time of the offense
13 by examining records such as:

14 (i) An Oregon driver license, regardless of its validity;

15 (ii) Records maintained by the Department of Revenue;

16 (iii) Records maintained by the Department of State Police;

17 (iv) Records maintained by the Department of Human Services;

18 (v) Records maintained by the Department of Corrections; and

19 (vi) Records maintained by the Oregon Health Authority.

20 (B) If the person did not have an identifiable address at the time of the offense, or the address
21 cannot be determined, the person is considered to have resided in the county where the offense oc-
22 curred.

23 (C) If the person is serving multiple sentences, the county of residence is determined according
24 to the date of the last arrest resulting in a conviction.

25 (D) In determining the person's county of residence, the board may not consider offenses com-
26 mitted by the person while the person was incarcerated in a Department of Corrections facility.

27 (d) Upon motion of the board, the supervisory authority, the person, a victim or a district at-
28 torney, the board may waive the residency condition under paragraph (b) of this subsection only
29 after making a finding that one of the following conditions has been met:

30 (A) The person provides proof of employment with no set ending date in a county other than the
31 county of residence determined under paragraph (c) of this section;

32 (B) The person is found to pose a significant danger to a victim of the person's crime residing
33 in the county of residence, or a victim or victim's family residing in the county of residence is found
34 to pose a significant danger to the person;

35 (C) The person has a spouse or biological or adoptive family residing in a county other than the
36 county of residence who will be materially significant in aiding in the rehabilitation of the person
37 and in the success of the post-prison supervision;

38 (D) As another condition of post-prison supervision, the person is required to participate in a
39 treatment program that is not available in the county of residence;

40 (E) The person requests release to another state; or

41 (F) The board finds other good cause for the waiver.

42 (8) As used in this section:

43 (a) "Attends," "carries on a vocation," "institution of higher education" and "works" have the
44 meanings given those terms in ORS 181.805.

45 (b)(A) "Dwelling" has the meaning given that term in ORS 469B.100.

1 (B) “Dwelling” does not mean a residential treatment facility or a halfway house.

2 (c) “Halfway house” means a residential facility that provides rehabilitative care and treatment
3 for sex offenders.

4 (d) “Labor dispute” has the meaning given that term in ORS 662.010.

5 **SECTION 2.** ORS 144.270 is amended to read:

6 144.270. (1) The State Board of Parole and Post-Prison Supervision, in releasing a person on
7 parole, shall specify in writing the conditions of the parole. A copy of the conditions must be given
8 to the person paroled.

9 (2) The board shall determine, and may at any time modify, the conditions of parole, which may
10 include, among other conditions, that the person paroled must:

11 (a) Accept the parole granted subject to all terms and conditions specified by the board.

12 (b) Be under the supervision of the Department of Corrections and its representatives and abide
13 by their direction and counsel.

14 (c) Answer all reasonable inquiries of the board or the parole officer.

15 (d) Report to the parole officer as directed by the board or parole officer.

16 (e) Not own, possess or be in control of a weapon.

17 (f) Respect and obey all municipal, county, state and federal laws.

18 (g) Understand that the board may, in its discretion, suspend or revoke parole if it determines
19 that the parole is not in the best interest of the person paroled or of society.

20 (3) If the person paroled is required to report as a sex offender under ORS 181.806, the board
21 shall include as a condition of parole that the person report with the Department of State Police,
22 a city police department, a county sheriff’s office or the supervising agency:

23 (a) When supervision begins;

24 (b) Within 10 days of a change in residence;

25 (c) Once each year within 10 days of the person’s date of birth;

26 (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an
27 institution of higher education; and

28 (e) Within 10 days of a change in work, vocation or attendance status at an institution of higher
29 education.

30 (4)(a) The board may establish special conditions that it considers necessary because of the in-
31 dividual circumstances of the person paroled.

32 (b) If the person is on parole following conviction of a sex crime, as defined in ORS 181.805, the
33 board shall include all of the following as special conditions of the person’s parole:

34 (A) Agreement to comply with a curfew set by the board or the supervising officer.

35 (B) A prohibition against contacting a person under 18 years of age without the prior written
36 approval of the board or supervising officer.

37 (C) A prohibition against being present more than one time, without the prior written approval
38 of the board or supervising officer, at a place where persons under 18 years of age regularly con-
39 gregate.

40 (D) In addition to the prohibition under subparagraph (C) of this paragraph, a prohibition
41 against being present, without the prior written approval of the board or supervising officer, at, or
42 on property adjacent to, a school, child care center, playground or other place intended for use
43 primarily by persons under 18 years of age.

44 (E) A prohibition against working or volunteering at a school, child care center, park, play-
45 ground or other place where persons under 18 years of age regularly congregate.

1 (F) Entry into and completion of or successful discharge from a sex offender treatment program
2 approved by the board or supervising officer. The program may include polygraph and
3 plethysmograph testing. The person is responsible for paying for the treatment program.

4 (G) A prohibition against direct or indirect contact with the victim **or a member of the**
5 **victim's immediate family**, unless approved **in writing** by the victim, the person's treatment pro-
6 vider and the board or supervising officer.

7 (H) Unless otherwise indicated for the treatment required under subparagraph (F) of this para-
8 graph, a prohibition against viewing, listening to, owning or possessing sexually stimulating visual
9 or auditory materials that are relevant to the person's deviant behavior.

10 (I) Agreement to consent to a search of the person or the vehicle or residence of the person
11 upon the request of a representative of the board if the representative has reasonable grounds to
12 believe that evidence of a violation of a condition of parole will be found.

13 (J) Participation in random polygraph examinations to obtain information for risk management
14 and treatment. The person is responsible for paying the expenses of the examinations. The results
15 of a polygraph examination under this subparagraph may not be used in evidence in a hearing to
16 prove a violation of parole.

17 (K) Maintenance of a driving log and a prohibition against driving a motor vehicle alone unless
18 approved by the board or supervising officer.

19 (L) A prohibition against using a post-office box unless approved by the board or supervising
20 officer.

21 (M) A prohibition against residing in a dwelling in which another sex offender who is on pro-
22 bation, parole or post-prison supervision resides unless approved by the board or supervising officer,
23 or in which more than one other sex offender who is on probation, parole or post-prison supervision
24 resides unless approved by the board or a designee of the board. As soon as practicable, the super-
25 vising officer of a person subject to the requirements of this subparagraph shall review the person's
26 living arrangement with the person's sex offender treatment provider to ensure that the arrangement
27 supports the goals of offender rehabilitation and community safety.

28 (c)(A) If the person is on parole following conviction of a sex crime, as defined in ORS 181.805,
29 or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years of age, the
30 board, if requested by the victim, shall include as a special condition of the person's parole that the
31 person not reside within three miles of the victim unless:

32 (i) The victim resides in a county having a population of less than 130,000 and the person is
33 required to reside in that county under subsection (6) of this section;

34 (ii) The person demonstrates to the board by a preponderance of the evidence that no mental
35 intimidation or pressure was brought to bear during the commission of the crime;

36 (iii) The person demonstrates to the board by a preponderance of the evidence that imposition
37 of the condition will deprive the person of a residence that would be materially significant in aiding
38 in the rehabilitation of the person or in the success of the parole; or

39 (iv) The person resides in a halfway house.

40 (B) A victim may request imposition of the special condition of parole described in this para-
41 graph at the time of sentencing in person or through the prosecuting attorney. A victim's request
42 may be included in the judgment document.

43 (C) If the board imposes the special condition of parole described in this paragraph and if at any
44 time during the period of parole the victim moves to within three miles of the parolee's residence,
45 the board may not require the parolee to change the parolee's residence in order to comply with the

1 special condition of parole.

2 (5) It is not a cause for revocation of parole that the person paroled failed to apply for or accept
3 employment at a workplace where there is a labor dispute in progress.

4 (6)(a) When the board grants a person parole from the custody of the Department of Corrections,
5 the board shall order, as a condition of parole, that the person reside for the first six months in the
6 county that last supervised the person, if the person was on active supervision as an adult for a
7 felony at the time of the offense that resulted in the imprisonment.

8 (b) If the person paroled was not on active supervision as an adult for a felony at the time of
9 the offense that resulted in the imprisonment, the board shall order as a condition of parole that the
10 person reside for the first six months in the county where the person resided at the time of the of-
11 fense that resulted in the imprisonment.

12 (c) For purposes of paragraph (b) of this subsection:

13 (A) The board shall determine the county where the person resided at the time of the offense
14 by examining records such as:

15 (i) An Oregon driver license, regardless of its validity;

16 (ii) Records maintained by the Department of Revenue;

17 (iii) Records maintained by the Department of State Police;

18 (iv) Records maintained by the Department of Human Services;

19 (v) Records maintained by the Department of Corrections; and

20 (vi) Records maintained by the Oregon Health Authority.

21 (B) If the person did not have an identifiable address at the time of the offense, or the address
22 cannot be determined, the person is considered to have resided in the county where the offense oc-
23 curred.

24 (C) If the person is serving multiple sentences, the county of residence is determined according
25 to the date of the last arrest resulting in a conviction.

26 (D) If the person is being rereleased after revocation of parole, the county of residence shall be
27 determined according to the date of the arrest resulting in a conviction of the underlying offense.

28 (E) In determining the person's county of residence, a conviction for an offense that the inmate
29 committed while incarcerated in a state correctional institution may not be considered.

30 (d) Upon motion of the board, the supervisory authority, the person paroled, a victim or a dis-
31 trict attorney, the board may waive the residency condition under paragraph (b) of this subsection
32 only after making a finding that one of the following conditions has been met:

33 (A) The person provides proof of employment with no set ending date in a county other than the
34 county of residence determined under paragraph (c) of this section;

35 (B) The person is found to pose a significant danger to a victim of the person's crime residing
36 in the county of residence, or a victim or victim's family residing in the county of residence is found
37 to pose a significant danger to the person;

38 (C) The person has a spouse or biological or adoptive family residing in a county other than the
39 county of residence who will be materially significant in aiding in the rehabilitation of the person
40 and in the success of the parole;

41 (D) As another condition of parole, the person is required to participate in a treatment program
42 that is not available or located in the county of residence;

43 (E) The person requests to be paroled to another state; or

44 (F) The board finds other good cause for the waiver.

45 (7) As used in this section:

1 (a) "Attends," "carries on a vocation," "institution of higher education" and "works" have the
2 meanings given those terms in ORS 181.805.

3 (b)(A) "Dwelling" has the meaning given that term in ORS 469B.100.

4 (B) "Dwelling" does not mean a residential treatment facility or a halfway house.

5 (c) "Halfway house" means a residential facility that provides rehabilitative care and treatment
6 for sex offenders.

7 (d) "Labor dispute" has the meaning given that term in ORS 662.010.

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